Calendar No. 861

97TH CONGRESS, 2d Session | SENATE | REPORT No. 97-590

AMERICAN SAMOA BOND AUTHORIZATION ACT

SEPTEMBER 27 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2632]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2632) authorizing the government of American Samoa to issue bonds and other obligations, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 1, line 6, after the word "obligations,", insert the words "the principal and interest of which are".

PURPOSE

The purpose of S. 2632 is to authorize the government of American Samoa to issue bonds or other obligations for industrial development.

BACKGROUND

American Samoa is an unincorporated, unorganized territory of the United States. American Samoa consists of seven islands, most of which lie approximately 2,300 miles southwest of Hawaii. The principal islands are Tutuila (where the capital, Pago Pago, is located), Aunu'u, and three islands of the Manu'a groups—Tau, Olosega, and Ofu. Swains Island, also a part of American Samoa, lies 280 miles to the northwest. Rose Atoll (uninhabited) is a national wildlife refuge and lies 250 miles east of Tutuila. The territory totals 76.2 square miles in size.

The population of American Samoa is approximately 30,000. The bulk of the people of Samoa are nationals, but not citizens of the United States, although some American Samoans, on an individual basis, have obtained United States citizenship. It is estimated that

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about 1 percent of the people of American Samoa are United States citizens. There are also many Western Samoans who have become long-term residents of American Samoa, their number being currently estimated as 12,848 (1976) of the estimated population of 30,000.

By a tripartite treaty entered into in 1899 by Germany, England, and the United States, the United States was assigned responsibility for the islands of Eastern (now American) Samoa. Thereafter, in 1900 and 1904 (ratified in 1929), the chiefs of Tutuila and Manu's voluntarily ceded their islands to the United States. By executive order, the United States entered into administration of the territory in 1900. The United States began to exercise sovereignty over Swains Islands in 1925, pursuant to an Act of Congress of that year.

The civil government of American Samoa is limited to those authorities set forth in the Constitution of American Samoa as approved by the Secretary of the Interior on June 2, 1967, pursuant to authority granted him under Executive Order No. 10264 dated June 29, 1951. The ability of American Samoa to issue bonds is limited to municipal bonds for services (water and sewer service, streets, city buildings) and does not include authority for industrial related developments. The economy of American Samoa is currently dominated by the territorial government, which employs slightly more than 45 percent of the workforce, and by two tuna canneries, which generate approximately 20 percent of the territory's employment. Retail and service establishments account for most of the rest of the economy.

American Samoa has significant tourist and commerce potential if the necessary infrastructure can be developed. Similar authority has previously been provided to Puerto Rico (48 U.S.C. 745), the Virgin Islands (48 U.S.C. 1574(b)(i)) and Guam (48 U.S.C. 1423a). The legislation was requested by the Governor of American Samoa.

Legislative History

S. 2632 was introduced on June 16, 1982, by Senator Weicker and was the subject of hearings before the Committee on Energy and Natural Resources on September 13, 1982. The measure was considered and ordered favorably reported by a vote of 18–0 with an amendment by the full Committee in an open business meeting on September 24, 1982.

Explanation of Amendment

The amendment to section 2 was proposed by the Administration to clarify that both the principal and interest of any bond or obligation is to be repaid from the undertaking financed.

Section-by-Section Analysis

Section 1. This section provides that the measure may be referred to as the American Samoa Bond Authorization Act of 1982.

Section 2. This section authorizes the Government of American Samoa to issue bonds or other obligations to be paid from the revenues derived from any improvement or undertaking pursuant to local legislation. This authority does not extend to governmental activities such as water and power or construction of municipal buildings.

Section 3. This section provides that the bonds or obligations shall not be subject to federal, state, or local taxation.

Section 4. This section provides that the United States shall not be liable for any such bond or obligation and that they shall not be a debt of the United States.

Committee Recommendation and Tabulation of Vote

The Senate Committee on Energy and Natural Resources in an open business session on September 24, 1982 considered S. 2632 and by unanimous vote of a quorum present recommends that the Senate pass S. 2632 if amended as described herein.

The rollcall vote on reporting the measure was 18 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	Mr. Heinz
Mr. Hatfield	Mr. Jackson [1]
Mr. Domenici	Mr. Johnston [1]
Mr. Wallop [1]	Mr. Bumpers
Mr. Warner	Mr. Ford
Mr. Humphrey [1]	Mr. Metzenbaum
Mr. Murkowski	Mr. Matsunaga [1]
Mr. Nickles	Mr. Melcher [1]
Mr. East [1]	Mr. Bradley

Cost and Budgetary Considerations

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., September 24, 1982.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2632, the American Samoa Bond Authorization Act of 1982, as ordered reported by the Senate Committee on Energy and Natural Resources, September 24, 1982.

This bill will authorize the government of American Samoa to issue tax-exempt revenue bonds and other obligations. To the extent that this bill will result in a shift of investments from taxable instruments to tax-exempt bonds, the federal government will incur a cost in the form of a tax expenditure. The precise cost impact of this bill cannot be estimated because no specific level of bond authority is included in the bill.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin,
Director.

[1] Indicates voted by proxy.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred on the passage of S. 2632.

It is the Committee's expressed opinion that the bill is not a regulatory measure in the sense of imposing Government established standards of significant responsibilities on private individuals or businesses. It also is the Committee's expressed opinion that little, if any, additional paperwork would result from enactment of S. 2632.

Executive Communications

The pertinent legislative report received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to S. 2632 is as follows:

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., September 10, 1982.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This is in response to your request for a report on S. 2632, the "American Samoa Bond Authorization Act of 1982."

The Department of the Interior has no objection to the enactment of S. 2632 subject to the two conditions noted below regarding Fono endorsement, and the payment of interest.

S. 2632 would allow the American Samoa Government to issue tax-exempt industrial revenue bonds under conditions similar to those applicable to Puerto Rico. The Governor of American Samoa has endorsed the proposal.

Some officials in American Samoa have interpreted the constitution of American Samoa as prohibiting the issuance of bonds. The Secretary of the Interior has the authority to amend the constitution of American Samoa. But the exercise of that authority would have serious, negative implications for self-government in the territory.

While the Secretary could allow industrial revenue bonds to be authorized and issued, he has no authority to affect the tax status of the interest paid on such obligations. At present, however, section 103 of the Internal Revenue Code confers tax-exempt status on the interest paid on qualifying industrial revenue bonds. This statute applies to American Samoa. We note, however, that section 103 contains limitations, including the $1 million/$10 million limitation on capital expenditures and the prohibition against arbitrage.

We understand that American Samoa contemplates financing projects of a scope larger than would be allowed under the limitations of section 103. Enactment of S. 2632 would be necessary to accommodate the requirements of American Samoa. The Department of the Interior supports the legislative approach contained in S. 2632 on the following conditions: (1) that the Fono endorse the legislation prior to enactment, and (2) that the bill be amended as follows to make clear that

the interest to be paid on the bonds or obligations is derived solely from the revenues of the improvement or undertaking.

In section 2(a), after the word "obligations,", insert the words "the principal and interest of which are".

Legislation similar to section 2 of S. 2632 is applicable, at present, to Puerto Rico (see 48 U.S.C. 745).

The Office of Management and Budget has advised that there is no objection to the presentation of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

PEDRO A. SANJUAN,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill, S. 2632, as reported.

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